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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,455	07/29/2003	Lee E. Steinman		7317

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EXAMINER

BAXTER, GWENDOLYN WRENN

ART UNIT PAPER NUMBER

3632

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/629,455

Applicant(s)

STEINMAN, LEE E.

Examiner

Gwendolyn Baxter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-7 and 16-18 is/are allowed.
- 6) ☒ Claim(s) 1,3,4,8,9 and 15 is/are rejected.
- 7) ☒ Claim(s) 10-14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

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This is the second office action for application serial number 10/629,455, Trivet, filed on July 29, 2003.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8, 9, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,559,251 to Wachi. Wachi teaches a device comprising a first body member (21) and a second body member (21) each of which is formed of thermal insulating material having opposite surfaces. Means coupling (22) the first body member and the second body member to one another has been provided. The coupling means comprising a strap (23) joined at one end to a first retainer (23b) and at its opposite end to a second retainer (23b). Each of the retainer comprising a stem (23a) having a length at least as great as the thickness of each said body member, each said stem having at its opposite ends an enlargement (23b) extending laterally of the associated stem. Each of the body member has an opening (21a) therein of such size a snugly to accommodate one of said stems. Each of the enlargements being of such size as to extend beyond said opening and overlies an adjacent portion of said body member when the associated stem is within one of said openings. At least one of said enlargements being sufficiently deformable as to enable it to pass through either of said openings. The strap being of such length as to enable said strap to span said first and second members when one of said

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retainers has its stem accommodated in one of the openings. The enlargement at one end of each the stem is formed by a part of the strap. The stem is hollow.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,371,470 B1 to Ward in view of U.S. Patent No. 5,386,978 to Ladwig. Ward teaches a device comprises a body (26, 30) having at least one opening (30) extending there through. The opening is defined by a wall having a height corresponding to the thickness of the body at the opening. The opening is encircled by an upstanding reinforcing flange (), which has an internal bore extending in prolongation of the wall. At least one of the surfaces has a plurality of spaced apart projections of substantially uniform height. The projections enable the one surface to be spaced above a support on which the body is placed. The bore and the opening are coextensive in cross sectional area. The wall of the opening and the bore are smooth. Additionally, Ward teaches a device fabricated from material that may be cleaned in a dishwasher. However, Ward fails to teach the body being formed of thermal insulating material.

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Ladwig teaches a device comprising a body having an opening therein. The body is formed from a polymer material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the body Ward to have incorporated the material as taught by Ladwig for the purpose of providing a tray that can be used in both a dishwasher and microwave.

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***Allowable Subject Matter***

Claims 10-14 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 5-7 and 16-18 are allowed.

***Response to Arguments***

Applicant's arguments with respect to claims 1, 3 and 4 have been considered but are moot in view of the new ground of rejection.

Applicant argues the means for coupling as taught by Wachi appear to be flexible. As for support of this assertion applicant recites column 2, lines 35-36 and column 2, lines 42-43 as teaching of the inflexibility of the coupling means. Only coupler means 23 will be discussed below. At lines 42-48, the coupler means (23) is said to having a pin 23a which is projected in the central portion if both ends. A resilient engaging pawl 23b if formed in the lower end thereof. Therefore, the coupling means is resilient since the engaging pawl is a component of the coupling means.

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Furthermore, Wachi teaches an enlargement 23b which extends both axially and laterally beyond the stem 23a so as to extend beyond the associated opening 21a a distance to enable the enlargement to overlie an adjacent portion of the body member when the stem is within one of such openings. See figure 4.

In response to applicant's arguments, the recitation trivet has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

### ***Conclusion***

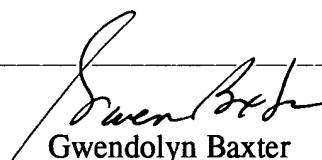
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Baxter whose telephone number is 703-308-0702. The examiner can normally be reached on Monday-Wednesday, 8:00am -5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A Braun can be reached on 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Gwendolyn Baxter  
Primary Examiner  
Art Unit 3632

January 4, 2005